

Addressing	
From	To
"Dworkin, Karen (ENRD)" <Karen.Dworkin@usdoj.gov>	"Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov> Laurie Kermish/R9/USEPA/US@EPA Ken Greenberg/R9/USEPA/US@EPA Michelle Moustakas <Moustakas.Michelle@epamail.epa.gov>
CC	BCC
"Friedman, Henry (ENRD)" <Henry.Friedman@usdoj.gov> "Smith, Justin (ENRD)" <Justin.Smith@usdoj.gov>	
Description Form Used: Memo	
Subject	Date/Time
RE: citizen suit SEP inquiry - private lateral line replacement	02/11/2013 12:44 PM
# of Attachments	Total Bytes
0	27,272
NPM	Contributor
	Kimberly Wells
Processing	
Comments	

Body

Document Body

Attorney-Client

[Redacted Content]

From: Harvey, Judy (ENRD)
Sent: Thursday, February 07, 2013 6:42 PM
To: Kermish, Laurie; Ken Greenberg; Michelle Moustakas
Cc: Dworkin, Karen (ENRD); Friedman, Henry (ENRD); Smith, Justin (ENRD)
Subject: citizen suit SEP inquiry - private lateral line replacement

EES/EPA—

Attorney-Client

Attorney-Client

Attorney-Client

I'm not available at the time Jerry's email suggests, but could try and set up a different time tomorrow or next week).

Thanks,

Judy Harvey

U.S. Department of Justice

Environment and Natural Resources Division

Law and Policy Section

(202) 514-3932

From: Jerry Bernhaut [<mailto:j2bernhaut@yahoo.com>]

Sent: Thursday, February 07, 2013 5:04 PM

To: Harvey, Judy (ENRD)

Subject: Re: River Watch phone conference

Judy,

In our negotiations with San Jose regarding their sewage system overflows (SSOs) they are proposing a loan program to help fund the inspection and repair of private sewer laterals, which are the property owner's responsibility, as a SEP. It does have the required public benefit and nexus in that deteriorated private laterals allow the inflow of rain water and ground water into the sewage system, which is a significant contributing factor to SSOs.

However, as we understand it, a loan program where the funds are repaid does not have the deterrent effect of a penalty, which is a function that a SEP in lieu of penalties should satisfy. A grant for the same purpose should satisfy the EPA guidelines.

Are you available 9 a:m: pacific time tomorrow?

Thanks,

Jerry